



WYOMING LEGISLATIVE SERVICE OFFICE

Research Memorandum

SENATE CONFIRMATION PROCESS FOR GUBERNATORIAL APPOINTMENTS

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by

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QUESTIONS:

- Provide an overview of the Senate confirmation process.
- Detail the Senate confirmation process when an appointee's term expires at the end of a governor's term in office.

SHORT ANSWER: The Wyoming Constitution does not specify a process for Senate confirmation of gubernatorial appointees. Until 1979, Wyoming Statutes did not provide a uniform process for Senate confirmation of gubernatorial appointees either. Instead, statutes for positions that required Senate confirmation solely stated that gubernatorial appointments had to be confirmed by the Senate. In 1979, the Legislature established a uniform Senate confirmation process for all nominees. In 1996, the Legislature amended the uniform process language for appointments conditional upon party affiliation.

In 1989, the Legislature enacted the Wyoming Government Reorganization Act, requiring all department directors to receive Senate confirmation. The Act also provides that agency director appointments expire at the end of a governor's term in office during which they were appointed. While the Wyoming Constitution provides that a term of office means a four-year term, the current Governor has not reappointed all agency directors appointed during his first term.

DISCUSSION:

QUESTION 1: PROVIDE AN OVERVIEW OF THE SENATE CONFIRMATION PROCESS

I. STATUTES

A) SENATE CONFIRMATION PROCESS BEFORE 1979

Until 1979, Wyoming Statutes did not provide a uniform process for the Senate Confirmation of gubernatorial appointments. Instead, statutes for appointments requiring Senate confirmation

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simply stated that gubernatorial appointments had to be confirmed by the Senate or with the advice and consent of the Senate without providing a specific process to follow. The earliest reference to a statutory Senate confirmation requirement dates to 1899 for the Board of Medical Examiners (currently known as the Board of Medicine). The 1899 statute stated:

“That the Governor by and with the advice and consent of the Senate shall appoint three persons, who shall be electors of this State, who shall constitute the State Board of Medical Examiners.”¹

The language used for the appointment and confirmation of agency directors was similar. For example, the 1977 law establishing the appointment and confirmation process for the director of the Department of Health stated:

“With the advice and consent of the Senate the Governor shall appoint a director for the department who shall serve under the direction and at the pleasure of the Governor.”²

B) SENATE CONFIRMATION PROCESS AFTER 1979

In 1979, the Legislature enacted W.S. 28-12-101 through 28-12-103 (see **Appendix A**) establishing a uniform Senate confirmation process for all gubernatorial appointments.³ Under the uniform confirmation process, the Governor must submit to the Senate the name, address, and occupation of each person he proposes for appointment to a public office and for which Senate advice and consent is required by the Constitution or statute.⁴ The Governor must submit the required information about the nominee to the Senate by:

- (a) Noon on the thirtieth legislative working day for appointments during a general session;⁵
- (b) Noon on the twelfth legislative working day for appointments during a budget session.⁶

Upon receiving the nominee’s information, the Senate must review the nominee’s qualifications “in a manner it determines” and either confirm or reject the nominee by roll call vote within five legislative working days.⁷ If the Senate rejects a nomination when the Legislature is still in session, the Governor must submit another person’s name, address, and biography for Senate consideration.⁸ If the Legislature is no longer in session, the Governor may fill the vacancy with

¹ 1899 Wyo. Sess. Laws, Ch. 18, § 1.

² 1977 Wyo. Sess. Laws, Ch. 176, § 2.

³ 1979 Wyo. Sess. Laws, Ch. 17, § 1.

⁴ W.S. 28-12-101(a).

⁵ W.S. 28-12-101(a)(i) uses the language “general and budget session” to refer to what is commonly known as a general session.

⁶ W.S. 28-12-101(a)(ii).

⁷ W.S. 28-12-102(a) and (b).

⁸ W.S. 28-12-102(c).

a temporary appointment.⁹ A temporary appointment is effective until March 1 of the following year.¹⁰

While some appointment statutes refer specifically to the uniform process, other statutes do not. This discrepancy, however, should not be construed as an inconsistency allowing the Governor to appoint individuals in a different manner. W.S. 28-12-101 states that the uniform process applies to each person the Governor proposes for appointment to public office.

C) AMENDMENT TO THE UNIFORM PROCESS FOR APPOINTMENTS CONDITIONAL UPON THE NOMINEE'S PARTY AFFILIATION

In 1996, the Legislature amended W.S. 28-12-101 to include language regarding appointments for which political affiliation is specified by law.¹¹ The amendment established that the Governor must provide the Senate with documentation showing the nominee's compliance with the party affiliation requirement as delineated in W.S. 9-1-218(e).¹² Under W.S. 9-1-218(e), a nominee must have been a member of the same political party for not less than six months before the date of nomination for appointments made during the legislative session and for not less than six months before the date of appointment for temporary appointments.¹³ Additionally, prior to Senate confirmation, nominees must file in the Governor's office an affidavit, acknowledged and sworn to under oath, stating their party affiliation for the six months preceding the appointment date.¹⁴

II. SENATE RULES

W.S. 28-12-102 requires the Senate to determine a process to review prospective appointees' qualifications.¹⁵ Senate Rule 16.0 outlines that process.¹⁶ The rule provides that upon the Senate's receipt of proposed governor appointments under W.S. 28-12-101(a), all members of the Senate must receive the names of prospective appointees and the public offices for which they are being nominated.¹⁷ On the next legislative workday, the President of the Senate must assign appropriate standing committees to interview and review the qualifications of each prospective appointee.¹⁸ Any senator may attend interview meetings and ask the prospective appointee questions.¹⁹ The committee must then report its recommendations regarding the prospective appointee to the

⁹ *Id.*

¹⁰ W.S. 28-12-101(b).

¹¹ 1996 Wyo. Sess. Laws, Ch 85, § 1.

¹² W.S. 28-12-101(a); 9-1-218(e).

¹³ *Id.*

¹⁴ W.S. 9-1-218(e).

¹⁵ W.S. 28-12-102(a).

¹⁶ 2023 Senate Rules, Rules 16.0.

¹⁷ 2023 Senate Rules, Rules 16.1(a).

¹⁸ 2023 Senate Rules, Rules 16.1(b).

¹⁹ *Id.*

Senate.²⁰ Within five legislative working days after the prospective appointee's name has been submitted to the Senate for consideration, the Senate must take a roll call vote to confirm or reject the appointment.²¹ Confirmation requires a simple majority vote.²²

III. CONSTITUTION

The Wyoming Constitution requires Senate confirmation of gubernatorial appointments in only two instances: for the six members of the Commission on Judicial Conduct and Ethics who are state electors and for the State Engineer.²³ While neither the Commission on Judicial Conduct and Ethics nor the State Engineer statutes refer to the uniform confirmation process, W.S. 28-12-101 specifies that the process applies to nominees for which the senate's advice and consent are required under the Constitution.²⁴

QUESTION II: DETAIL THE SENATE CONFIRMATION PROCESS WHEN AN APPOINTEE'S TERM EXPIRES AT THE END OF A GOVERNOR'S TERM

A) WYOMING GOVERNMENT REORGANIZATION ACT OF 1989

In 1989, the Legislature enacted the Wyoming Government Reorganization Act to organize the executive branch of state government into a limited number of departments to ensure the effective and efficient application of state resources.²⁵ The Act establishes that department directors must be appointed by the Governor with the Senate's advice and consent.²⁶ In addition, the Act specifies that a department director's "term of appointment expires at the end of the term of office during which he was appointed [.]"²⁷ In addition, four statutes governing department director appointments include similar language (see **Table 1**). While Wyoming statutes do not define the "term" of office of the Governor, the Constitution provides that:

"The executive power shall be vested in a governor, who shall hold his office for the term of four (4) years and until his successor is elected and duly qualified."²⁸

During the 2023 General Session, which marked the current Governor's first year of his second term, the Governor did not reappoint all the department directors appointed during his first term.

²⁰ 2023 Senate Rules, Rules 16.1(c).

²¹ *Id.*

²² *Id.*

²³ Wyo. Const. art V, § 6 (a)(iii) (Commission); art. VIII, § 5 (State Engineer).

²⁴ W.S. 5-1-103 (Commission); 9-1-901 through 9-1-909 (State Engineer).

²⁵ 1989 Wyo. Sess. Laws, Ch. 138, § 1; W.S. 9-2-1702.

²⁶ W.S. 9-2-1705(a)(i); 9-2-1706(a).

²⁷ W.S. 9-2-1706(a).

²⁸ Wyo. Const. art. IV, § 1.

(See **Appendix B** for a complete list of 2023 appointments). It is unclear whether the current Governor's interpretation of the statute is different from previous governors' interpretation or a continued interpretation.

Table 1: Governor Appointees Whose Governing Statutes Specifically Mention That Terms Expire at the End of a Governor's Term in Office

Agency	Statutory Language
Water Development Office	W.S. 9-2-2014 The director's term of appointment shall expire at the end of the term of office of the governor during which he was appointed, unless sooner removed.
Office of Administrative Hearings	W.S. 9-2-2201 Unless sooner removed, the director's term of appointment expires at the end of the term of office of the governor during which he was appointed.
Office of Guardian ad Litem	W.S. 9-2-3101 Unless sooner removed, the director's term of appointment expires at the end of the term of office of the governor during which he was appointed.
Office of State Lands and Investments	W.S. 36-3-101 The term of his office shall expire at the end of the term of office of the governor during which he was appointed, unless sooner removed.

Source: LSO Staff

If you have any further questions, please do not hesitate to contact the LSO Research and Evaluation Division at 777-7881.

Appendix A
W.S. § 28-12-101 through 103

[Wyo. Stat. § 28-12-101](#)

Current through 2023 General Session. Subject to revisions by LSO.

Wyoming Statutes Annotated > Title 28 Legislature (Chs. 1 — 12) > Chapter 12 Senate Confirmation of Gubernatorial Appointments (§§ 28-12-101 — 28-12-103)

§ 28-12-101. Appointments by governor; vacancies.

(a) The governor shall submit to the senate the name, address and occupation of each person he proposes for appointment to public office and for which senate advice and consent is required under either the constitution or laws of this state. In addition and for those appointments for which political party affiliation is specified by law, the governor shall provide the senate with documentation of compliance with [W.S. 9-1-218\(e\)](#). The information required by this section shall be submitted to the senate by:

- (i) Noon on the thirtieth legislative working day during the general and budget session; and
- (ii) Noon on the twelfth legislative working day during the budget session.

(b) The governor may fill any vacancy occurring between sessions of the legislature by temporary appointment to be effective until March 1 of the ensuing calendar year.

History

Laws 1979, ch. 17, § 1; 1996, ch. 85, § 1.

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[Wyo. Stat. § 28-12-102](#)

Current through 2023 General Session. Subject to revisions by LSO.

Wyoming Statutes Annotated > Title 28 Legislature (Chs. 1 — 12) > Chapter 12 Senate Confirmation of Gubernatorial Appointments (§§ 28-12-101 — 28-12-103)

§ 28-12-102. Senate consideration of gubernatorial appointments; procedure; roll call vote required.

- (a) The senate, in a manner it determines, shall review the qualifications of each person whose name is submitted to it for consideration in accordance with [W.S. 28-12-101\(a\)](#).
- (b) After review of nominees in accordance with subsection (a) of this section, the senate, within five (5) legislative working days after submission by roll call vote, shall confirm or reject each gubernatorial nominee requiring the advice and consent of the senate.
- (c) If the senate does not consent to a nominee for a given office, the governor shall submit the name, address and biography of another person for senate consideration if the legislature is still in session. If the legislature has adjourned, the governor may make a temporary appointment as provided in [W.S. 28-12-101\(b\)](#). No person rejected by the senate shall be appointed to or serve in, either temporarily or otherwise, the public office for which his nomination was rejected.

History

Laws 1979, ch. 17, § 1; 2010, ch. 70, § 1.

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[Wyo. Stat. § 28-12-103](#)

Current through 2023 General Session. Subject to revisions by LSO.

Wyoming Statutes Annotated > Title 28 Legislature (Chs. 1 — 12) > Chapter 12 Senate Confirmation of Gubernatorial Appointments (§§ 28-12-101 — 28-12-103)

§ 28-12-103. Expiration date of appointees' terms.

Notwithstanding any other provision of law, effective July 1, 1979, after the expiration of the current term of office of each person appointed by the governor and required to be confirmed by the senate, the next term of that office expires on March 1 during the year of regular expiration. Thereafter, each term, as specified in this section, and each term of office on any board, commission or committee created by the laws of this state after July 1, 1979, and for which senate confirmation is required, expires on March 1 during the year of regular expiration. Notwithstanding the provisions of this section, the term of an attorney general serving pursuant to [W.S. 9-1-601\(b\)](#) shall terminate as provided by that subsection.

History

Laws 1979, ch. 17, § 1; 1987, ch. 175, § 1; 2001, ch. 152, § 1.

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Appendix B

2023 Senate Confirmed Appointments

Appointments for Senate Confirmation
February 22, 2023

AERONAUTICS COMMISSION – DISTRICTS – TERM LIMITS

- Reappointment(s):

Sigsbee Duck – At-Large – Teton
Bruce McCormack – District 4 – Park

- New appointment(s):

Dean McClain – District 1 – Goshen

AGRICULTURE BOARD – DISTRICTS – PARTY SPLIT

- Reappointment(s):

Mike Riley – District 5 – Big Horn – R

AGRICULTURE AND NATURAL RESOURCE MEDIATION BOARD

- Reappointment(s):

Mary Martin – Teton

ARTS COUNCIL – DISCIPLINES

- Reappointment(s):

Kevin Voyles – Lincoln

- New appointment(s):

Ben Moritz – Albany
Robert Martinez – Fremont

BARBER EXAMINERS BOARD – DISCIPLINES

- Reappointment(s):

Richard Graubeger – Carbon

- New appointment(s):

Zoe Conard – Fremont (*appointed to complete an unexpired term*)

BUSINESS COUNCIL – TERM LIMITS

- Reappointment(s):

Alexander Klein – Teton

Erick Arens – Albany

Mark Law – Sheridan

Pamela Thayer – Carbon

Charles (Chuck) Brown – Platte

- New appointment(s):

Elaine Harvey – Big Horn (*appointed to complete an unexpired term*)

CHILDREN’S TRUST FUND BOARD – DISCIPLINES

- Reappointment(s):

Marguerite Herman – Laramie

- New appointment(s):

Terri Dawson – Johnson

COMMUNITY COLLEGE COMMISSION – PARTY SPLIT – DISTRICTS – TERM LIMITS

- Reappointment(s):

Gregg Blikre – In-District – Campbell – R

Micah Wyatt – In-District – Fremont – I

- New appointment(s):

Patricia Flynn Elliot – Out-of-District – Big Horn – I

Natalia Macker – Out-of-District – Teton – D

COMMUNITY DEVELOPMENT AUTHORITY – PARTY SPLIT – TERM LIMITS

- Reappointment(s):

Pete Illoway – Laramie – R

CULTURAL TRUST FUND BOARD

- Reappointment(s):

Susan Stubson – Natrona

- New appointment(s):

Brian Beauvais – Park (*appointed to complete an unexpired term*)

Nathan Doerr – Laramie

DENTAL EXAMINERS BOARD – DISCIPLINES – TERM LIMITS

- Reappointment(s):

Mark O’Farrell – Sweetwater
Denise Prugh Rasmussen – Natrona

- New appointment(s):

Rodney Hill – Natrona

EDUCATION STATE BOARD – DISCIPLINES – DISTRICTS – TERM LIMITS – PARTY SPLIT

- New appointment(s):

Reynolds ‘RJ’ Kost – Certified Teachers – Park – R
Joseph Gaspari – District 2 – Carbon – R
Fred Von Ahrens, Jr. – Business/Industry – Sweetwater – R
Matthew (Scott) Crisp – District 3 – Teton – I
Taylor Jacobs – School Board Members – Fremont – R (*appointed to complete an unexpired term*)

ENERGY RESOURCES COUNCIL, UW – DISCIPLINES

- Reappointment(s):

Mark Doelger – Natrona
Cindy Crane – Sweetwater

ENVIRONMENTAL QUALITY COUNCIL – DISCIPLINES – PARTY SPLIT

- Reappointment(s):

Shane True – Natrona – R
Ryan Greene – Sweetwater – D
Steve Lenz – Crook – R

EQUALIZATION BOARD – PARTY SPLIT

- Reappointment(s):

Martin Hardsocg – Laramie – R

GAME AND FISH COMMISSION – DISTRICTS – TERM LIMITS – PARTY SPLIT

- New appointment(s):

Russell ‘Rusty’ Bell – District 4 – Campbell – R

John Masterson – District 7 – Natrona – R

GAMING COMMISSION – DISTRICTS – TERM LIMITS

- Reappointment(s):

Richard Currah – District 7 – Fremont

- New appointment(s):

Jenni Wildcat – Tribal Representative – Fremont

Mark Francisco – Law Enforcement Representative – Laramie

Dennis Boal – District 3 – Uinta

Dan Schiffer – District 4 – Sheridan

GEOLOGICAL SURVEY BOARD

- Reappointment(s):

Lisa Lindemann – Laramie

Fred David Searle – Sheridan

INDUSTRIAL SITING COUNCIL – PARTY SPLIT

- Reappointment(s):

Jeffrey Wallace – Laramie – R

Dustin Spomer – Park – R

- New appointment(s):

Kristin Lee – Laramie – D (*appointed for a partial term that expires March 1, 2023; also appointing for a new full term*)

JUDICIAL CONDUCT AND ETHICS – DISCIPLINES – TERM LIMITS

- Reappointment(s):

Keren Meister-Emerich – Laramie

Ryan McConnaughey – Natrona

- New appointment(s):

Nicholas Bellack – Laramie (*appointed to complete an unexpired term*)

Margaret Farley – Converse (*appointed to complete an unexpired term*)

LIVESTOCK BOARD – DISTRICTS – DISCIPLINES – TERM LIMITS

- New appointment(s):

Weston Jones – District 5 – Hot Springs

Lexie Painter – District 6 – Niobrara

MEDICINE BOARD – DISCIPLINES – TERM LIMITS

- Reappointment(s):

Melinda Poyer – Sweetwater
Priscilla Dillon – Sheridan

- New appointment(s):

Emily McGrady – Sweetwater
Dr. Frederick (Eric) Cubin III – Natrona

MENTAL HEALTH PROFESSIONS LICENSING BOARD – DISCIPLINES

- Reappointment(s):

Eric Schlidt – Natrona
Kathleen Farstad – Albany

MINING COUNCIL – DISCIPLINES

- Reappointment(s):

Phillip Dillinger – Johnson
Eric Fagley – Sweetwater

- New appointment(s):

Smokey Deines – Converse

OCCUPATIONAL HEALTH AND SAFETY COMMISSION – DISCIPLINES

- Reappointment(s):

Chuck Dobkins – Sublette

Peter Perakos – Laramie

- New appointment(s):

Trudy Eisele – Laramie (*appointed to complete an unexpired term*)

OIL AND GAS CONSERVATION COMMISSION

- Reappointment(s):

Jimmy Goolsby – Natrona

OUTFITTERS AND PROFESSIONAL GUIDES – DISTRICTS – DISCIPLINES

- Reappointment(s):

Lee Livingston – District 5 – Park

- New appointment(s):

Tedd Jenkins – District 3 – Lincoln

PARKS AND CULTURAL RESOURCES COMMISSION – DISTRICTS – PARTY SPLIT

- New appointment(s):

Leslie Stewart – District 6 – Niobrara – R (*appointed to complete an unexpired term*)

PAROLE – PARTY SPLIT

- New appointment(s):

Jeff Wasserburger – Campbell – R

PHARMACY – DISCIPLINES – TERM LIMITS

- New appointment(s):

Jonathan Beattie – Sweetwater

PSYCHOLOGY BOARD – DISCIPLINES – TERM LIMITS

- New appointment(s):

Brad Dickey – Teton

Caitlin Pischer – Laramie

Mark Holland – Natrona

Terresa Humphries-Wadsworth – Park

PUBLIC SERVICE COMMISSION – PARTY SPLIT

- Reappointment(s):

Michael Robinson – Laramie – R

REAL ESTATE COMMISSION – DISCIPLINES – TERM LIMITS

- New appointment(s):

Jezria Latham – Carbon

Wendy Hauck – Campbell

RETIREMENT SYSTEM BOARD – DISCIPLINES – PARTY SPLIT

- Reappointment(s):

Paul O’Brien – Teton – R
Lesley Travers – Natrona – D
Eric Nelson – Natrona – D

- New appointment(s):

Jeremy Smith – Sheridan – R – *(appointed to complete an unexpired term)*
Jim Ruby – Laramie – R *(appointed for a partial term that expires March 1, 2023; also appointing for a new full term)*

SCHOOL FACILITIES COMMISSION – PARTY SPLIT – DISTRICTS – DISCIPLINES

- Reappointment(s):

Tom Farrens – District 3 – Uinta – I

- New appointment(s):

Jacklyn (Jackie) Van Mark – District 1 – Goshen – R
Travis Conklin – District 5 – Park – R
Bruce Thoren – District 7 – Fremont – R

TOURISM BOARD – DISTRICTS – TERM LIMITS

- Reappointment(s):

John Johnson – District 2 – Natrona
Quintin Blair – District 5 – Park
Robert (Budd) Betts – At-large – Fremont

- New appointment(s):

Charisse Meadows Haws – District 6 – Teton *(appointed to complete an unexpired term)*

TRANSPORTATION COMMISSION – DISTRICTS – TERM LIMITS – PARTY SPLIT

- New appointment(s):

James Willox – District 7 – Converse – R

Mike Baker – District 5 – Hot Springs – R

UNEMPLOYMENT INSURANCE COMMISSION – PARTY SPLIT

- New appointment(s):

Heather Schoning – R

UW BOARD OF TRUSTEES – PARTY SPLIT – DISTRICTS

- Reappointment(s):

David Fall – District 4 – Campbell – I

Kermit Brown – District 2 – Albany – R

Laura Schmid-Pizzato – District 2 – Sweetwater – Unaffiliated

- New appointment(s):

Jim Mathis – District 1 – Platte – R

VETERINARY MEDICINE – TERM LIMITS – DISCIPLINES

- New appointment(s):

Jennifer Gage – Sheridan

Ben Osborne – Uinta

WATER DEVELOPMENT COMMISSION – PARTY SPLIT – DISTRICTS – DISCIPLINES –
TERM LIMITS

- Reappointment(s):

John Lawson – Division 1 – Natrona – R

Mark Kot – Division 4 – Sweetwater – D

- New appointment(s):

Todd Hoes – Division 2 – Crook – R

Dennis Pince – Division 3 – Fremont – R (*appointed for a partial term that expires
March 1, 2023; also appointing for a new full term*)

WILDLIFE AND NATURAL RESOURCE TRUST ACCOUNT – DISTRICTS –
DISCIPLINES

- Reappointment(s):

Christine Haswell – District 4 – Sheridan

Carroll (Pidge) Fulton – District 5 – Park

- New appointment(s):

JD Williams – District 8 – Niobrara

**AGENCY DIRECTORS
FOR SENATE CONFIRMATION**

State Engineer

Brandon Gebhart (six year term – reappointment; previously appointed to fill a partial term)

State Inspector of Mines

Heather Kroupa (two year term – reappointment; corrected appointment date)

Office of Consumer Advocate

Anthony Ornelas

Chief Information Officer

Timothy Sheehan (as Interim Director)